

REMARKS

In the Office Action mailed on November 14, 2005, the Examiner rejected claim 124 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter; rejected claims 1, 2, 4-7, 120, 121, 124, 126, 127, 129, 131-135, 137, 138, 140, 142, 144-152, 154-157, and 164-167 under 35 U.S.C. § 102(b) as allegedly being anticipated by Porter (U.S. Patent No. 5,676,676); and rejected claims 130, 143, and 153 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Porter in view of Yoon (U.S. Patent No. 5,695,505).

By this Amendment, Applicants amend claims 120 and 124, and add new claims 168-171. Accordingly, claims 1, 2, 4-7, 120-121, 124, 126, 127, 129-135, 137-138, 140, 142-157, and 164-171 are currently pending. Of these claims, claims 1, 120, 135, and 148 are independent.

In response to the Examiner's rejection of claim 124 under 35 U.S.C. § 112, second paragraph, claim 124 has been amended to replace "projection" with --anchoring portion--, thereby rendering the Examiner's rejection moot. Accordingly, claim 124 satisfies the requirements of 35 U.S.C. § 112, second paragraph.

Applicants respectfully traverse the Examiner's rejection of claims 1, 2, 4-7, 120, 121, 124, 126, 127, 129, 131-135, 137, 138, 140, 142, 144-152, 154-157, and 164-167 under 35 U.S.C. § 102(b). Each of independent claims 1, 120, 135, and 148 requires, among other things, a device (e.g., a clip) that comprises first and second arms connected to each other at a first end (e.g., the proximal end) so as to define an opening (or gap) that allows tissue to extend from the connection beyond a second end of each of the first and second arms when the tissue is secured between the arms.

Porter discloses a ligating clip 10 including first and second legs 12 having proximal ends 14 and distal ends 16. The proximal ends 14 of each leg 12 are joined together by a hinge 22. The legs 12 are movable about hinge 22 between an open position for receiving a vessel 50, and a closed position for securing the vessel 50. See, e.g., Porter, col. 2, lines 36-37; col. 3, line 56 - col. 4, line 12; and Figs. 5-7. In the closed position, the distal ends 16 of the legs 12 are secured together by lock tab 26 and lock slot 28.

Porter, however, fails to disclose that the legs 12 of clip 10 are connected to each other at a first end in a manner that defines an opening that allows tissue to extend from the connection beyond a second end of each of the arms. Porter in fact teaches just the opposite -- a clip opening that does not permit tissue to extend beyond the distal ends of the legs 12. Specifically, clip 10, when in the closed position, secures tissue 50, but because of the rigid connection between distal ends 16 created by lock tab 26, fails to define an opening that allows tissue 50 to extend from the connection between the proximal ends 14 to beyond the distal ends 16 of legs 12. See, Porter, Fig. 7. Indeed, the Office Action does not address where Porter teaches such an opening. Accordingly, Porter fails to teach each and every element of independent claims 1, 120, 135, and 148, and Applicants respectfully request that the rejection be reconsidered and withdrawn.

Applicants respectfully traverse the rejections of claims 130, 143, and 153 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Porter in view of Yoon. Even if Yoon teaches what the Examiner alleges (and Applicants do not necessarily agree that it does), this reference fails to overcome the shortcomings of Porter discussed above.

Accordingly, claims 130, 143, and 153 are allowable at least for the reasons discussed above with respect to Porter.

Each of claims 2, 4-7, 121, 124, 126-127, 129-134, 137-138, 140, 142, 143-147, 149-157, and 164-171 depend from one of claims 1, 120, 135, and 148, and are patentable for at least all of the reasons for which these base claims are patentable.

The outstanding Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

In discussing the specification and claims in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to an exemplary embodiment described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

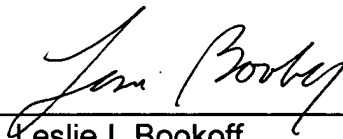
In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application, and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Response that is not otherwise provided with the filing, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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